

CABINET FOR FAMILIES AND CHILDREN  
DEPARTMENT FOR COMMUNITY BASED SERVICES  
"An Equal Opportunity Employer M/F/D"



DIVISION OF CHILD SUPPORT



Information Memorandum  
DCS-IM-01-06

TO: Staff  
Division of Child Support  
Division of Service Regions  
Child Support Section

DATE: March 6, 2001

SUBJECT: Cold Check Restitution

The Accounting Branch in the Division of Child Support (DCS) is experiencing problems with the restitution of money for insufficient funds checks (cold checks). DCS is losing money each month because contracting official staff and area office staff are instructing noncustodial parents or obligors to "double up on the next payment" or to "send an extra payment" in order to provide a replacement check for the check that did not clear the obligor's bank due to insufficient funds.

Telling an obligor to send an extra payment without identifying the extra payment as cold check restitution does not ensure appropriate recovery of money lost by DCS due to a cold check. The unidentified extra payment can cause a non-K-TAP custodial parent to receive the same payment twice or a public assistance custodial parent's case to escrow. Sending an extra payment without identifying the payment as restitution for a cold check does not recoup the cold check money that DCS has distributed.

Money sent to DCS to make restitution for a cold check must be in "guaranteed funds," that is, certified check, cashiers check, or money order. In addition, if an obligor pays a contracting official in cash to make restitution for a cold check, the contracting official can deposit the cash into his or her IV-D account and write a check payable to the Division of Child Support for restitution of the cold check amount.



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Money sent to DCS to make restitution for a cold check must be addressed as follows:

Division of Child Support  
Attention: Jeff Johnson  
Post Office Box 2150  
Frankfort, KY 40602-9927

Information Memorandum 00-12 (May 21, 2000) provides procedures for contracting officials and their staff to follow for recovering cold check payments from obligors and employers. Action Memorandum 99-01 (February 10, 1999) provides child support staff with information about DCS's cold check fee policy and the Accounting Branch's procedures for recovering cold check payments before a case is referred to a contracting official for prosecution.

Information Memorandum 00-12 specifies that issuing a cold check is a criminal offense that county attorneys have an obligation to prosecute. If the cold check amount is for \$300 or more, the county attorney usually refers the case to the Commonwealth's Attorney for prosecution since it involves a Class D felony. Whether or not the county attorney is the IV-D contracting official, the county attorney is obligated to prosecute cold check cases under Kentucky Revised Statute 514.040, independent of any Title IV-D responsibility.

Information Memorandum 00-12 also specifies that a IV-D contracting official who is not a county attorney can submit a case for cold check prosecution to his or her county attorney, along with the documentation and information that are necessary to prosecute the case. If the cold check is for \$300 or more, the contracting official who is not a county attorney can refer the case to the Commonwealth's Attorney for prosecution, along with appropriate documentation.

Questions about cold check restitution are to be directed to Jeff Johnson at 502/564-2285, extension 4446.



STEVEN P. VENO, DIRECTOR  
DIVISION OF CHILD SUPPORT

Cross References:

Information Memorandum 00-12, Legal Opinion CFC-OC-00-01 (May 1, 2000)  
Action Memorandum 99-01, Cold Check Fee Policy (February 10, 1999)  
Legal Opinion CFC-OC-00-01 (March 20, 2000)